

Exhibit E.

Deposition of Jim DeFea

IN UNITED STATES DISTRICT COURT  
DISTRICT OF SOUTH DAKOTA  
WESTERN DIVISION

Patricia Gregerson,

Civ. 18-5044-JLV

Plaintiff,

-vs-

Farm Bureau Property and  
Casualty Insurance Company,

Defendant.

\* \* \* \* \*

D E P O S I T I O N O F

Jim DeFea

\* \* \* \* \*

APPEARANCES:

Mr. Daniel K. Brendtro  
Mr. Robert D. Trzynka  
Brendtro Law Firm  
Sioux Falls, South Dakota

Attorneys for the Plaintiff.

Mr. Mark J. Arndt  
Evans, Haigh & Hinton  
Sioux Falls, South Dakota

Attorney for the Defendant.

## INDEX OF EXAMINATIONS

By Mr. Brendtro:

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## INDEX OF EXHIBITS

NUMBER	DESCRIPTION	REFERENCED
1	Insurance policy	9, 11
2	Claims file	8, 10
3	12/29/16 Fritz letter to Holloway re coverage	5

\* \* \* \* \*

(Original transcript and exhibits provided to Mr. Brendtro.)

## S T I P U L A T I O N

It is hereby stipulated and agreed, by and between the above-named parties through their attorneys of record, whose appearances have been hereinabove noted, that the deposition of Jim DeFea may be taken at this time and place, that is, at the offices of Evans, Haigh & Hinton, Sioux Falls, South Dakota, on the 11th day of June, 2019, commencing at the hour of 3:30 p.m.; said deposition taken before Kerry Lange, FAPR, RMR, a Notary Public within and for the State of South Dakota; said deposition taken for the purpose of discovery or for use at trial or for each of said purposes, and said deposition is taken in accordance with the applicable Rules of Civil Procedure as if taken pursuant to written notice. Objections, except as to the form of the question, are reserved until the time of trial. Insofar as counsel are concerned, the reading and signing of the transcript by the witness are waived.

\* \* \* \* \*

JIM DEFEA,

called as a witness, having been first duly sworn,  
testified as follows:

EXAMINATION BY MR. BRENDTRO:

**Q Go ahead and state your name.**

A Jim DeFea.

**Q Jim, have you had your deposition taken before?**

A Yes, I have.

**Q How many times? Hang on.**

A Oh --

MR. BRENDTRO: I'm going -- we've started the deposition. I'm going to just reask those questions for the video, if that is all right with you, Mark.

MR. ARNDT: Sure.

**Q Go ahead and state your name.**

A Jim DeFea.

**Q Jim, have you had your deposition taken before?**

A Yes, I have.

**Q How many times?**

A Five or six.

**Q Was it in the context of insurance disputes?**

A Yes, it was.

**Q Were any of those insurance disputes involving claims of bad faith or claims of malpractice?**

A Yes, they were.

**Q Would that be all of them or just some of them?**

A I know two of them for sure. I can't remember for sure about the others. I'm sorry.

1 Q I'll have you take a look at Exhibit 3. Were you  
2 involved in the hiring of Tom Fritz?

3 A Yes.

4 Q Was it your decision or someone else's decision?

5 A It was a joint decision.

6 Q What was the purpose of hiring Mr. Fritz?

7 A To facilitate discussions with Mr. Holloway.

8 Q Was his job to convey the position of Farm Bureau to  
9 Mr. Holloway?

10 A Yes.

11 Q Was Mr. Fritz hired to evaluate and give advice about the  
12 claim itself?

13 A Yes.

14 Q Are you familiar with the letter then that he sent on  
15 December 29th of 2016 to Mr. Holloway?

16 A Yes.

17 Q Mr. Holloway was the Gregersons' attorney?

18 A Yes.

19 Q In that letter, Mr. Fritz states that Farm Bureau has  
20 concluded its investigation. Do you see that?

21 A Yes.

22 Q Would that be an accurate statement as of December 19 --  
23 or sorry, as of December 29th, 2016?

24 A Yes.

25 Q And the conclusion from its investigation is that Karl

1 Knutson converted the Gregersons' cattle?

2 A It doesn't say that.

3 Q Would that be an accurate statement of what the  
4 conclusion was?

5 A Yes.

6 Q Do you know upon what date Farm Bureau made that  
7 conclusion?

8 A I don't know the specific date. It would have been  
9 before this letter.

10 Q Would it have been while Leonard Gregerson was still  
11 alive?

12 A I'm not sure when Mr. Gregerson passed away.

13 Q Would it have been -- would that have been -- strike  
14 that. Would the conclusion that Karl Knutson converted  
15 Gregersons' cattle been Farm Bureau's position as of the  
16 time that you and Leonard spoke on the phone in February  
17 of 2015?

18 A Yes.

19 Q And so Farm Bureau had concluded its investigation into  
20 the facts long before this letter, is that accurate?

21 A Yes.

22 Q The second part of Mr. Fritz's letter says that Farm  
23 Bureau has made the determination that there is coverage  
24 under the policy. Do you see that?

25 A I see that.

1 Q Is that an accurate statement?

2 A Yes and no. We still to this day maintain our position  
3 of -- regarding the coverage and the exclusions that were  
4 applicable.

5 Q That was the conversion exclusion?

6 A Yes, sir.

7 Q How is it that Mr. Fritz came to write a letter then that  
8 says there is coverage?

9 MR. ARNDT: Well, I'll object to the extent that it  
10 calls for speculation if you're asking about Attorney  
11 Fritz's mindset.

12 A I'm not sure what Tom's intent was by choosing this  
13 verbiage. It wasn't our decision that the coverage  
14 exclusions were not in place as they had been. I don't  
15 know what Tom's intent was by choosing these words.

16 Q Did you review this letter around the time of  
17 December 29th, 2016 after he sent it?

18 A After he sent it, yes.

19 Q Did you talk to him about the language of his letter  
20 after he sent it?

21 A I did not.

22 Q And so you did not challenge his statement that Farm  
23 Bureau made the determination that there was coverage  
24 under the policy?

25 A I did not.



1 Q Do you know if anybody from Farm Bureau challenged  
2 Mr. Fritz's conclusion?

3 A I know that everyone at Farm Bureau had the same opinion  
4 about coverage as I had.

5 Q That the conversion exclusion applied?

6 A Yes.

7 Q And the conversion exclusion is something that -- well,  
8 is the exclusion that you're relying upon when you sent  
9 Leonard and Patty Gregerson a letter in February of 2015?

10 A That exclusion and others.

11 Q If you turn to Exhibit 2, Page 286. Is that the letter  
12 that you wrote to Leonard and Patty denying coverage for  
13 their cattle loss?

14 A Yes, it is.

15 Q Where does it say that you're relying upon the conversion  
16 exclusion?

17 A I believe we would have intended it to be part of -- on  
18 Page 7, Paragraph 2, "Additional Exclusions Applicable to  
19 Animals, Number 5, Infidelity of your employees or other  
20 persons to whom your animals are entrusted."

21 Q And also Number 6?

22 A We would have relied upon that as well; "Escape  
23 mysterious disappearance, wrongful conversion, or  
24 embezzlement."

25 Q And this wasn't a mysterious disappearance, though. We

1       **had evidence of conversion, right?**

2       A    The animals were never found, so any one of the items  
3           listed on 4, 5 or 6 or 7 would have triggered the  
4           coverage consideration.

5       **Q    And does the letter say where in the policy we can find**  
6       **those?**

7       A    I'm not sure. It references the scheduled personal  
8           property module back on Page FB0290. And then we would  
9           have provided a full copy of the policy for that module  
10          when we received it.

11      **Q    Okay. And that property module has a code on it,**  
12      **PKSD.MSCHP.0508?**

13      A    That's correct.

14      **Q    And that refers to a policy module in the Gregerson**  
15      **policy?**

16      A    Yes, sir.

17      **Q    Let's turn to that module in Exhibit 1 of Gregersons'**  
18      **policy. First, do you agree that is a certified copy of**  
19      **the Gregerson policy?**

20      A    Yes, it.

21      **Q    And you turn to the second page. Do you agree that it**  
22      **was the policy that was in force at the time of the loss?**

23      A    Yes, it is.

24      **Q    Okay. And then can you then turn to that module that you**  
25      **referenced, PKSD.MSCHP.0508 which I think you called the**

1       **schedule of personal property module.**

2       A    It might take me a few minutes to find that. I'm not  
3           sure what order this is in. (Reviewing.) Looks like it  
4           starts on Page 173.

5       Q    **And so if I'm on Page 173 of the policy, you're saying**  
6           **that is module PKSD.MSCHP.0508?**

7       A    I'm showing PKSD.SPROP.508.

8       Q    **So that's -- that's different then, right?**

9       A    Property section. (Reviewing.) Oh, I'm sorry. PK --  
10          PKSD.MFRPP.508.

11      Q    **On Page 5 of your letter you described it as**  
12          **PKSD.MSCHP.0508? Your letter was Page 290 of Exhibit 2.**

13      A    That's for the scheduled, and the farm/ranch personal  
14          property would be the PKSD.MFRP.508 -- 0508. I'm sorry.

15      Q    **Okay. And so are you telling me then that those**  
16          **exclusions listed on Page 292 of your letter are not from**  
17          **PKSD.MSCHP.0508?**

18      A    (Reviewing.) PKSD.SPROP.0508 on Page FB288 discusses the  
19          named causes of loss, with reference on Page FB0289 to  
20          "10. Theft. We cover direct physical loss to or of  
21          covered property caused by theft or attempted theft.  
22          There is no coverage for g., loss of farm/ranch personal  
23          property or business personal property by losing,  
24          misplacing, mysterious disappearance or where the only  
25          evidence of a shortage is disclosed upon taking an

1 inventory."

2 Q We were talking, though, about a conversion exclusion on  
3 Page 292.

4 A PKSD.MSCHP.0508.

5 Q Would it help you to look at the list of policy forms and  
6 endorsements?

7 A No. I'm looking for the form in with the policy material  
8 here. (Reviewing.) I'm not seeing that form here unless  
9 it's -- I'm missing it.

10 Q Can you turn to Page 74 of Exhibit 1.

11 A Yes.

12 Q Is there a listing of policy forms and endorsements?

13 A Yes, there is.

14 Q And do you see PKSD.MSCHP.0508 listed on the Gregersons'  
15 policy forms and endorsements?

16 A I do not.

17 Q That would not be part of the policy, would it?

18 A That would be correct.

19 Q But nonetheless in your letter you quoted extensively  
20 from that, including on Pages 5, 6 and 7. Correct?

21 A Correct.

22 Q And in so doing, you misrepresented the policy provisions  
23 to the Gregersons?

24 A My only explanation is a typo.

25 Q A typo that --

1 A Of the form referenced.

2 Q So it's your testimony then that that exclusion on Page 7  
3 of your letter appears somewhere in the policy, meaning  
4 the conversion exclusion?

5 A The conversion exclusion would apply to scheduled  
6 property.

7 Q My question, though, is it your testimony that there is a  
8 conversion exclusion for scheduled property that exists  
9 in this policy?

10 A Yes.

11 Q Where is it?

12 A In the pol -- oh, in the Gregersons' policy, they did --  
13 no, they did not have any animal specifically scheduled.  
14 Their animals were scheduled by class, so the coverage  
15 would be different.

16 Q So these exclusions and all this policy language listed  
17 on Pages 5, 6 and 7 isn't in the policy?

18 A That form is not attached to their policy, no.

19 Q It's not included in their policy, is it?

20 A Correct.

21 Q And so it would be improper to apply exclusions to the  
22 Gregersons' claim that aren't part of the policy, right?

23 A That's correct.

24 Q It would be improper to misrepresent policy provisions to  
25 the Gregersons that aren't in their policy, is that

1 correct?

2 A That's correct.

3 Q It would not be fair to the Gregersons for that to  
4 happen, would it?

5 A That would be correct.

6 Q Mr. DeFea, how long have you worked at Farm Bureau?

7 A Twenty-five years.

8 Q Did you have a job prior to Farm Bureau working in  
9 insurance?

10 A I worked for ten years for Colonial Nationwide and I  
11 worked three years for American Family.

12 Q When you started at Farm Bureau, what was -- what was  
13 your position or your job duties?

14 A Senior claims rep, field, multi-line.

15 Q How long were you in that position?

16 A From '93 until '98.

17 Q As a senior claims staffer, what did you do?

18 A Multi-line claims, property and casualty.

19 Q Did some of those involve livestock?

20 A Yes, they did.

21 Q As part of that function in the company, did you -- were  
22 you trained about Farm Bureau's practices?

23 A Yes, I was.

24 Q Farm Bureau taught you how to read a policy?

25 A Yes, they did.

1 Q Taught you where to go look for a policy?

2 A Yes, they did.

3 Q Taught you how to apply facts to the policy provisions?

4 A Yes, they did.

5 Q After 1998, what was your role at Farm Bureau?

6 A I was with the Iowa Farm Bureau as a bodily injury  
7 specialist. I'm not sure about the exact title.

8 Q Car crash cases?

9 A Yeah.

10 Q How long was --

11 A Yes.

12 Q -- your position with --

13 A I was in Iowa for two years.

14 Q After that?

15 A I moved back to South Dakota.

16 Q What was your function then in South Dakota?

17 A I actually worked for the Minnesota Farm Bureau as a  
18 senior field claim rep.

19 Q How long did you have that role?

20 A Ten years.

21 Q And your role after that?

22 A I was the South Dakota business center claim consultant.

23 Q Tell me what you do in that role.

24 A That was essentially the claim manager role.

25 Q Meaning you managed the adjustors?

1 A Correct.

2 Q In your claims experience prior to being a claims  
3 manager, did you handle livestock claims?

4 A Yes.

5 Q Theft claims?

6 A Yes.

7 Q In your role as a claims manager, did you oversee  
8 livestock claims?

9 A Yes.

10 Q Including theft of livestock claims?

11 A Yes.

12 Q Did you participate in drafting denial letters to other  
13 farmers in livestock theft claims?

14 A Yes.

15 Q Do you have an estimate of how many?

16 A No.

17 Q How long were you the South Dakota claims manager?

18 A April of 2010 until Drew's arrival. I think it was 2015.  
19 I'm not sure about the exact date.

20 Q Would -- would July of 2016 sound about right?

21 A That would sound about right.

22 Q And during those approximately six years as the claims  
23 manager, would every adjustor who had a livestock theft  
24 claim have to run that by you if they were denying  
25 coverage?



1 A They would start with me, yes.

2 Q Tell me what you mean by that.

3 A Well, I report to Kevin McCoy in Des Moines.

4 Q Would that be true for every livestock theft claim  
5 denial?

6 A Yes.

7 Q That the adjustor would contact you and you contact Kevin  
8 McCoy?

9 A Yes.

10 Q What's the reason for that?

11 A Oversight. More eyes. Make sure we're doing it  
12 correctly.

13 Q And then my understanding of the limits of authority for  
14 your adjustors is that you would then write the denial  
15 letter. Is that correct?

16 A I -- if they were versed in drafting the initial  
17 disclaimer, it would come to me, I would approve it, and  
18 then we would set it up in front of Kevin or others to  
19 decide any edits that would be necessary.

20 Q Did you have a standard form that you used in  
21 South Dakota?

22 A No.

23 Q Had you drafted other denial letters --

24 A Yes.

25 Q -- on policies -- okay. Hang on. I got to finish my

1 question.

2 A I'm sorry.

3 Q I paused and made it complicated. Do you believe that  
4 you drafted other denial letters for Farm Bureau  
5 Insurance who did have that policy module in their  
6 policy, PKSD.MSCHP.0508?

7 A I don't recall any specific cattle loss denials in that  
8 time frame involving similar facts. So I can't answer  
9 yes or no. I don't recall.

10 Q Now, that was not my question. Would other customers of  
11 Farm Bureau have had that provision as part of their  
12 policy?

13 A Depending on how they insured their livestock, yes.

14 Q Your testimony is that that's an actual policy provision  
15 somewhere in the Farm Bureau universe?

16 A Yes, it is.

17 Q As a state claims manager for South Dakota, did you have  
18 access to lists or accounts or evaluations of the types  
19 of claims that were being handled by your claims  
20 managers?

21 A I'm sorry, I don't quite understand that question.

22 Q Okay. Let me -- maybe I'll just jump ahead. Do you have  
23 a way in the Farm Bureau system to look up livestock  
24 theft cases that you would have handled during that time  
25 frame?

1 A Not me personally. I don't know what master list might  
2 capture that data. I do not have access to that.

3 Q Does the claim file record losses in a certain way when  
4 it's cattle theft?

5 A I don't know, but I would have to believe there is some  
6 potential for that. I don't -- I just don't know.

7 Q Is one of the reasons that you believe that is because  
8 that's how underwriting would know if it's doing its job  
9 right?

10 A No. I -- I don't do underwriting.

11 Q During the six-year span that you were the claim manager  
12 for South Dakota, do you have an estimate of how many  
13 cattle theft cases came across your desk?

14 A No.

15 Q Would it be more than 10,000?

16 A Cattle claim losses?

17 Q Correct.

18 A I would say in the six years that I was claim manager, we  
19 handled a total of -- and I'm -- I'm speculating  
20 somewhat, around 50,000 claims total, with the largest  
21 majority being storm-related claims.

22 Q And so 10,000 cattle theft claims would be too high for  
23 that six-year time period?

24 A Oh, that would be too high in my entire career.

25 Q During that six-year time frame, you think you had more

1           than 500 cattle theft claims?

2     A     No.

3     Q     More than a hundred?

4     A     No.

5     Q     More than 50?

6     A     No.

7     Q     More than 10?

8     A     I would say that might be closer to the number.

9     Q     And we're talking about cattle theft claims that you  
10           would have overseen as a manager during that six-year  
11           time period from 2010 to 2016?

12    A     Correct.

13    Q     In your prior role as an adjustor -- would that be  
14           accurate to describe what you were?

15    A     Yes.

16    Q     How many cattle theft claims came across your desk?

17    A     Let's see, in the course of 17 years of field work,  
18           probably a dozen.

19    Q     And if I put those numbers together, 17 years, 12, six  
20           years with ten, understanding that these are estimates,  
21           over 23 years, you think you handled somewhere around 22  
22           cattle theft claims?

23    A     I would only be speculating, but to my recollection,  
24           that's a fair number.

25    Q     Okay. Do you recall how many cattle theft claims you

1 would have approved for coverage?

2 A I recall paying more than denying. I think I probably  
3 only denied less than a half a dozen.

4 Q Are you familiar with what protocols or systems are in  
5 place at Farm Bureau to make sure the claims are handled  
6 accurately?

7 A Yes.

8 Q What are those?

9 A Best practices and review by management, supervisors.

10 Q And what are the best practices?

11 A They're guidelines for claims handling from auto,  
12 property, casualty.

13 Q And they're best practices for cattle theft claims?

14 A I don't have best practices committed to memory, but  
15 there would be references in there on how to handle a  
16 claim involving a certain dollar value, and certainly a  
17 cattle claim would probably meet that threshold.

18 Q And do those best practices include using the correct  
19 policy provisions?

20 A Correct.

21 Q Are you familiar with any protocols that are in place to  
22 make sure that Farm Bureau's adjustors are actually using  
23 the correct portions of the policy?

24 A Yes.

25 Q What protocols or rules are those?

1 A Review by management.

2 Q And who is management?

3 A Well, it would be the state claim manager and Kevin  
4 McCoy.

5 Q And so when the state claim manager is the one making the  
6 decision, then it would be Kevin McCoy's job to -- to  
7 review your work?

8 A Kevin would critique my work. Whether he roundtables it  
9 with anybody else would be up to him.

10 Q And what's Kevin's job title?

11 A Property claim manager.

12 Q And was he in that role in 2014 and '15?

13 A Yes.

14 Q Would he be your supervisor at that point in time in  
15 2015?

16 A I don't know if it's fair to say he's a supervisor as  
17 much as if you have a coverage determination for  
18 property, you would take it to him. Equally there's  
19 managers that would review casualty. So it's a  
20 specialization.

21 Q The difference between casualty and -- what did you say  
22 Kevin was? He was a --

23 A Property claim manager.

24 Q Difference between property and casualty is what?

25 A Well, casualty would be your auto accidents and liability

claims. Property is just what it references, property.

**Q Casualty would be Mr. Petrik?**

**A** Yes.

**Q What would Mr. Petrik's role be on a claim like this involving --**

**A** Charles would --

**Q -- cattle theft?**

**A** -- would be, as I referenced the additional person with the contract knowledge and the experience to make sure that we do things appropriately and correctly.

**Q And so would you have provided a copy of your -- your letter, your February 2015 letter, to both Charles and to Kevin?**

**A** Yes.

**Q And they both would have reviewed it?**

**A** Yes.

**Q And they both would have had to have approved it for you to send it out?**

**A** Yes.

**Q Would you say that you report to either one of those two at that point in time or do you report to somebody else?**

**A** Yes. I -- I would say that in the hierarchy of Farm Bureau, they're what's called shared services. They are in a different department in Des Moines. And the claim managers in any state would report these types of claims,

1 coverage denials, serious claims, to the appropriate  
2 manager, whether it's property or casualty, and they  
3 would provide oversight.

4 **Q So for particular claims, they would -- you would report**  
5 **to them on claims?**

6 A Yes.

7 **Q In the hierarchy, is there someone that you then report**  
8 **to administratively that's your boss?**

9 A Administratively in South Dakota would have been D.J.  
10 Wittrock. He was the business center director.

11 **Q And that's based out of Sioux Falls?**

12 A Yes.

13 **Q Do you know what the duties are of the business center**  
14 **director?**

15 A Well, D.J.'s duties would have included underwriting and  
16 marketing and he would have been involved in property/  
17 casualty, but not on a daily basis. It's -- I would not  
18 have been obligated to taking a claim question or report  
19 to him. It would have been going either to Charles or  
20 Kevin.

21 **Q And so his function is -- is more just managing the**  
22 **business side of things?**

23 A Yes.

24 **Q In his role managing the business side of things in the**  
25 **South Dakota territory, did he discuss concepts like loss**



1 ratio with you?

2 A Yes.

3 Q And did he track the loss ratios for South Dakota?

4 A Yes.

5 Q Did you have goals about the loss ratios for  
6 South Dakota?

7 A At his level, he would have had a goal. In my level I  
8 don't get so much concerned or involved with that. A  
9 claim is what a claim is.

10 Q Did Mr. Petrik or Mr. McCoy have an interest in loss  
11 ratios?

12 A I can't answer that question as to what their specific  
13 responsibilities were. Would they have an interest in  
14 it? I think anybody in the insurance business has a, you  
15 know, an interest in the loss ratio. It's a measurement  
16 number. So to say that he had no interest, I -- that  
17 would probably not be true. But I don't understand that  
18 they would have had any goal setting loss ratio. They  
19 were never -- they never expressed that to me.

20 Q Is it accurate that you were the South Dakota claims  
21 manager during the time that Jim Brannen became CEO of  
22 Farm Bureau?

23 A Yes.

24 Q And following his installation as the CEO, did you notice  
25 a change in how Farm Bureau operated?

1 A No.

2 Q Did you notice a change in how claims were handled?

3 A No.

4 Q Did you notice a change in goals or other numbers that  
5 the company was looking at?

6 A No.

7 Q Is your position salaried or is there a bonus  
8 associated --

9 A Salary.

10 Q So there's no bonus at all?

11 A No bonus at all.

12 Q And so your -- your salary is just dependent upon your  
13 showing up to work?

14 A Well, I suppose I have to do my job.

15 Q And -- and doing your job?

16 A Yes.

17 Q And people above you are -- are bonused and have other  
18 incentives?

19 A I don't have any access to what they get paid. I haven't  
20 a clue.

21 Q Are you familiar that levels above you are positions that  
22 involve bonuses?

23 A I pretty much worry about Jim DeFea and the things he's  
24 responsible for. I don't worry about Jim Brannen or the  
25 people at his level.

1 Q I understand that on a day-to-day basis you're not  
2 worried about that. My question is are you aware that  
3 employees above you are compensated with bonuses?

4 A I don't know if they are or if they are not. I don't  
5 look at that. I don't pay any attention to that.

6 Q People above you like D.J. Wittrock were concerned about  
7 the loss ratio?

8 A I would have to believe that's D.J.'s responsibility,  
9 profitability and rating, marketing.

10 Q And it was your understanding that loss ratio is  
11 connected to profitability?

12 A Of course is it, yes.

13 Q Why is that?

14 A Well, if we want to remain competitive in this business,  
15 we have to some checks and balances enforced to be  
16 competitive in the rate world. There's a lot of  
17 different carriers in this state, and if we pay every  
18 claim at whatever anybody asks and pay no attention to  
19 expenses, we wouldn't be here very long. The rest of our  
20 competitors would, through a variety of different  
21 mechanisms, remove us from this marketplace.

22 Q Has the market gotten more competitive in recent years?

23 A Oh, I -- I'm sure it has.

24 Q Would you agree then that the pressure on profitability  
25 has increased in recent years?

1 A I can't imagine that the pressure on profitability hasn't  
2 affected every carrier out there, but I don't see how it  
3 couldn't.

4 Q Do you have an estimate of the time frame of when you  
5 think that started to happen?

6 A Probably when interest rates changed.

7 Q And would that mean post-2008?

8 A Oh, I would say long before that. You know, we used to  
9 make more money on return on investment, which obviously  
10 makes permissible loss ratios and expenses not as much of  
11 a factor, and that along with just more competition,  
12 that's the environment.

13 Q I'm trying to pin down when the interest rates would have  
14 changed just from my memory. Would that be 2000 then?

15 A Well, I know in the '80s you could make 14 percent, and  
16 we've gradually got down to two percent. So it's been  
17 the same effect for everyone. I'm not an economist.

18 Q No, but you've been in the business for 40 --

19 A 40 years.

20 Q -- years?

21 A Yes.

22 MR. BRENDTRO: Let's take a quick break.

23 THE WITNESS: Thank you. Better go put some money in  
24 the meter.

25 (Recess at 4:12 p.m.)

1 MR. BRENDTRO: Mr. DeFea, I have no further questions  
2 for you.

3 THE WITNESS: Okay.

4 MR. ARNDT: Okay. Jim, you have got a right to  
5 review your deposition transcript before it would become  
6 certified. I'm going to recommend that you take that  
7 opportunity, that Kerry send you a copy of the transcript  
8 and you review it for any corrections or clarifications  
9 that you would want to make. Is that okay?

10 THE WITNESS: Yes, it is.

11 MR. ARNDT: Okay. So, Kerry, if you could send us an  
12 errata sheet and the transcript, I'll get it to Jim.

13 THE REPORTER: Okay.

14 (Witness excused at 4:23 p.m.)  
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25

STATE OF SOUTH DAKOTA       )  
  :  
COUNTY OF MINNEHAHA       )

CERTIFICATE

I, Kerry Lange, Court Reporter and Notary Public, do hereby certify that the witness was first duly sworn by me to testify to the truth, the whole truth, and nothing but the truth relative to the matter under consideration; that the reading and signing of the deposition was not waived by the witness for reasons as hereinbefore stated; that the foregoing pages 1 - 28, inclusive, are a true and correct transcript of my stenotype notes.

I further certify that I am not a relative or employee or attorney or counsel of any of the parties or a relative or employee of such attorney or counsel, and that I am not financially interested in this action.

In testimony whereof, I have hereto affixed my signature this 17th day of June, 2019.

  
\_\_\_\_\_  
Kerry Lange

Commission Expires: 7/12/23

Pursuant to the Rules of Civil Procedure, I have read the foregoing pages 1 - 28, inclusive, and have noted any and all changes in form or substance desired in my testimony, and have signed below on the \_\_\_\_ day of \_\_\_\_\_, 2019.

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\_\_\_\_\_  
Jim DeFea

Notary Signature: \_\_\_\_\_

My Commission Expires: \_\_\_\_\_

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